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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,	)	
	)	No. CR 03-40210 SBA
	)	
Plaintiff,	)	
	)	
v.	)	<b>DEFENDANT CHAUDHRY'S</b>
	)	<b>SUPPLEMENTAL MOTIONS IN</b>
	)	<b>LIMINE</b>
MOHAMMED YOUSEF CHAUDHRY,	)	
ALI H. KHAN,	)	
	)	
Defendants.	)	
	)	Pre-Trial Conference:
	)	September 11, 2007
	)	Dept.: Courtroom 3
	)	

Defendant Chaudhry hereby files the following objections to government witnesses, and related motions, in response to the government's Revised Witness List.

- Testimony About Dealings Between the Defendants and RT and AES Software Customers Concerning Payments Other than Those Charged in the Indictment Should be Excluded.

The defense objected in its initial motions *in limine* to testimony regarding business transactions not charged in the indictment. The government has added Bruce Toledo to its list of witnesses who have no relation to the companies, checks, or

1 transactions charged here. Testimony from Mr. Toledo should also  
2 be excluded.

3 2. Evidence of the Defendants' Dealings with Check Cashers  
4 for RT and AES Checks Other than Those Charged in the  
5 Indictment Should be Excluded.

6 The defense objected in its initial motions *in limine* to  
7 testimony regarding transactions and relationships with check  
8 cashers not charged in the indictment. The government has added  
9 IRS agent Kevin Williamson as providing testimony regarding  
10 documents found at Money Market Financial Services, a business  
11 where none of the charged transactions took place. Agent  
12 Williamson's testimony and said documents should thus be excluded.

13 3. Evidence About the Trash Found at Clarence Walker's  
14 House is Irrelevant and Should be Excluded.

15 The government's new witness list identifies two (2)  
16 government agents who will testify about trash retrieved from  
17 Clarence Walker's house: Anthony Armentano and William Bournazos.  
18 The defense objects that such evidence is irrelevant and should be  
19 excluded. (FRE 402.) Even if relevant, testimony by two  
20 witnesses would be cumulative and the government should be limited  
21 to one percipient witness on this topic.\_\_\_\_\_(FRE 403.)

22 4. Evidence Concerning Database Searches by Clarence Walker  
23 Is Irrelevant and Should Be Excluded.

24 The government has identified two government agents who will  
25 testify about IRS database searches purportedly requested by  
26 Clarence Walker: Anthony Armentano and James Oertel. There is no  
27 evidence these database searches were requested by Mr. Chaudhry or  
28 conducted on his behalf, and this testimony should be excluded as  
irrelevant. (FRE 402). Even if such testimony were probative of  
any of the charges against Mr. Chaudhry, testimony should be

1 limited to the percipient witnesses who conducted the searches for  
2 Mr. Walker and can testify they did so at his request during some  
3 relevant time period - not by government agents summarizing the  
4 statements of third parties.

5       5.   Government Agents Should Not be Permitted to Testify  
6           Generally About the Investigation of Defendant.

7       The government also proposes to introduce testimony of  
8 government agents Connie Militano and Russell Higgins concerning  
9 the investigation of Mr. Chaudhry. Agents Militano and Higgins  
10 interviewed several witnesses while investigating the underlying  
11 case, but they should be excluded from testifying about those  
12 interview. Those witnesses should be called for their own direct  
13 testimony if it concerns relevant matters.

14       6.   Testimony Regarding Surveillance of RT Computers Is Not  
15           Relevant and Should be Excluded.

16       The government proposes to introduce testimony from FBI Agent  
17 John McClure regarding his surveillance of RT Computers. This  
18 testimony is not relevant, and is potentially misleading and  
19 confusing to the jury, and should be excluded. (FRE 402 & 403.)

20       7.   Testimony of IRS Agent Janice Tobin Should be Excluded.

21       The government also proposes to introduce the testimony of  
22 IRS agent Janice Tobin, concerning "business documents related to  
23 the Title 31 program." Without knowing more precisely the nature  
24 of the proposed testimony, the defense objects that Agent Tobin's  
25 testimony about Title 31 would be cumulative in light of the  
26 proposed expert testimony of Richard Adams and/ or Charles Tonna.  
(FRE 403.)

27       8.   IRS Detroit Computing Center Representative Testimony  
28           Should be Limited to Relevant Matters.

1 It is not clear from the government's witness list what  
2 testimony is proposed by this IRS representative. No expert  
3 disclosures have been made regarding testimony from this IRS  
4 office. The defense reserves objection.

5 9. Testimony of a State of California Representative  
6 Regarding the Licensing of Check Cashing Businesses Is  
7 Irrelevant, Time Consuming, Prejudicial, and Confusing,  
8 and Should be Excluded.

9 Mr. Chaudhry is not charged with conducting an unlicensed  
10 check cashing businesses and this proposed testimony should be  
11 excluded as irrelevant, confusing, time consuming, and  
12 prejudicial. (FRE 402 & 403.) Its possible relevance only  
13 relates to Clarence Walker's avowed instruction to Mr. Chaudhry to  
14 file Currency Transaction Reports ("CTRs"). Whether said advice  
15 was incomplete with respect to California law is a completely  
16 collateral and immaterial issue.

17 10. Testimony of Government Agents Concerning Statements by  
18 Mr. Chaudhry Are Irrelevant and Should be Excluded.

19 Two government agents are offered to testify about  
20 conversations with Mr. Chaudhry: Chris Langert and Brian Goold,  
21 Agent Daniel O'Connell is listed by the government for his  
22 testimony about statements by Mr. Chaudhry. The defense is  
23 continuing to review witness statements disclosed by the  
24 government, but has so far only come across one reported  
25 conversation between Agent Langert and Mr. Chaudhry. Agent  
26 Langert was involved in the execution of a search warrant at R&J  
27 Technologies, a company not involved in any of the transactions  
28 charged here. While at R&J, Agent Langert persuaded its  
proprietor Richard Liu to call Mr. Chaudhry. Agent Langert took

1 the phone and inquired whether Mr. Chaudhry had made a delivery to  
2 R&J earlier in the day. Mr. Chaudhry was apparently unwilling to  
3 say more than "I don't know" to the agent without first talking to  
4 his lawyer. This is not relevant to the charges here. The  
5 defense will continue to review the discovery for additional  
6 conversations between Agent Langert or Agent Goold and Mr.  
7 Chaudhry, or made in the presence of Agent O'Connell, and reserves  
8 further objection.

9 11. Testimony of Bank Representatives Concerning the Banking  
10 Relationship With Mr. Chaudhry and his Businesses Should  
11 be Excluded.

12 Without knowing precisely what testimony will be offered, the  
13 defense objects that testimony from Cathay Bank, Union Bank, or  
14 Bank of America representatives about the bank's "relationship  
15 with Mr. Chaudhry and his companies" is irrelevant. The defense  
16 reserves further objection.

17 12. The Statements of Robert Overby Are Not Relevant and  
18 Should be Excluded.

19 Robert Overby, according to discovery, was a transient who  
20 was allowed to occasionally leave his things and spend time at RT  
21 Computers. He told agents that he sometimes helped out and Mr.  
22 Chaudhry sometimes paid him a few dollars. His testimony is not  
23 relevant to the charges here and should be excluded. (FRE 402.)

24 13. The Government Should Identify Which, If Any, of its  
25 Witnesses Were Named Confidential Informants in  
26 Discovery.

27 Documents disclosed by the government include interviews with  
28 a witness identified as "Source" and one identified as "T-1". No  
witness is identified in the government's revised witness list as  
having been a confidential informant. The defense requests,

1 pursuant to the Jencks Act, 18 U.S.C. 3500, that the government be  
2 ordered to disclose which of its named witnesses, if any, gave  
3 statements attributed to a confidential informant in discovery.

4 14. Testimony About the Conspiracy Between Sheila Wu, Radu  
5 Tomescu, and Clarence Walker, and Testimony About  
6 Walker's Other Bad Acts is Irrelevant and Unduly  
7 Prejudicial and Should be Excluded.

8 The defense hereby moves to exclude testimony about the  
9 conspiracy between Sheila Wu, Radu Tomescu, and Clarence Walker,  
10 and to exclude testimony about any other of Walker's bad conduct  
11 while he was an IRS agent.

12 Clarence Walker was the IRS agent investigating Mr. Chaudhry  
13 for Title 31 compliance. He was tried in this Court in June 2006  
14 for receiving bribes paid by Tomescu and Wu and conspiring with  
15 them to defraud the United States, to fail to file Currency  
16 Transaction Reports, and to structure transactions to avoid  
17 reporting requirements. Mr. Chaudhry was not charged in that  
18 conspiracy.

19 At Walker's trial, Radu Tomescu testified that he and Sheila  
20 Wu, through their company World Wide Sales (WWS), paid Walker to  
21 help them cash checks without raising suspicion through the IRS  
22 reporting system. Walker also agreed as part of their bargain to  
23 keep Tomescu and Wu informed about whether the IRS was looking at  
24 their files.

25 Sheila Wu testified that Walker used his influence with check  
26 cashing businesses to cash checks whose amounts were over \$10,000,  
27 without triggering the filing of Currency Transaction Reports.  
28 She said Mohammed Chaudhry introduced her to Walker.

1 Tomescu and Wu are expected to testify in the instant case  
2 that they wrote checks on behalf of WWS to Mr. Chaudhry and his  
3 businesses to pay for products he was selling, and for cash.  
4 Sheila Wu is expected to say, as she did in Walker's trial, that  
5 Mr. Chaudhry told her how to fill in the amount of the check, and  
6 that the amount was often less than \$10,000. That testimony is  
7 relevant to the charges here. However, testimony concerning the  
8 relationship between Walker and Wu and Tomescu, and testimony  
9 about Walker's illegal or improper dealings with others is not  
10 relevant here. Likewise, testimony that Walker was terminated  
11 from his duties with the IRS is not relevant should be excluded.

12 Testimony concerning acts and statements by others - usually  
13 co-conspirators - is occasionally permitted in conspiracy cases,  
14 when such acts or statements they are "relevant in suggesting the  
15 existence and aims of the conspiracy." (United States v. Testa  
16 548 F.2d 847, 851 (9<sup>th</sup> Cir. 1977)). In addition to being relevant,  
17 such testimony must typically overcome objections pursuant to  
18 Federal Rule of Evidence (hereafter, "FRE") 404 (b) and FRE 802,  
19 objections that such testimony cannot overcome in this case. (See  
20 Id.) Here, in addition, such testimony should be excluded as  
21 unduly prejudicial under FRE 403.

22 Walker is not a co-conspirator in the instant matter and his  
23 out of court statements, if offered, would be inadmissible  
24 hearsay. (FRE 802). Furthermore, testimony concerning Walker's  
25 illegal conduct while he was an IRS agent - either as described by  
26 Tomescu and Wu or by others with knowledge of Walker's illegal  
27 dealings with check-cashing businesses and convenience store  
28 owners - is not in any sense relevant to the "existence and aims

1 of the conspiracy" at issue in this case. (Testa, 548 F.2d at  
2 851.) Walker's activities in cashing checks for WWS, searching  
3 IRS records on its behalf, and advising its principals how to deal  
4 with tax laws and regulations (either legally or illegally) do not  
5 tend to show one way or another whether Mr. Chauhdry and Mr. Kahn  
6 agreed to structure transactions, or did in fact structure them;  
7 or whether Mr. Chaudhry filed false tax returns. Inclusion of  
8 such testimony would be plainly prejudicial and confusing to the  
9 jury. It would only suggest, unfairly, that because Walker had  
10 agreed to conspire with Tomescu and Wu, that he must also have  
11 conspired with Mr. Chaudhry. Any such proposed testimony should  
12 be excluded.

13 DATED: September 3, 2007

Respectfully submitted,

14  
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